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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,389	07/26/2001	Neil Andrew Cowie	00.177.01	5037
7590	03/14/2006		EXAMINER	
Zilka-Kotab, PC P.O. Box 721120 San Jose, CA 95172-1120			HENNING, MATTHEW T	
			ART UNIT	PAPER NUMBER
			2131	
			DATE MAILED: 03/14/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/912,389	COWIE ET AL.
	Examiner	Art Unit
	Matthew T. Henning	2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 December 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) See Continuation Sheet is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) See Continuation Sheet is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 30 October 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

Continuation of Disposition of Claims: Claims pending in the application are 1-3,5-9,11,12,14-19,21-25,27,28,30-35,37-41,43,44,46-51,53-57,59,60,62-67,69-73,75,76,78-83,85-89,91,92 and 94-96.

Continuation of Disposition of Claims: Claims rejected are 1-3,5-9,11,12,14-19,21-25,27,28,30-35,37-41,43,44,46-51,53-57,59,60,62-67,69-73,75,76,78-83,85-89,91,92 and 94-96.

This action is in response to the communication filed on 12/12/2005.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

4 A request for continued examination under 37 CFR 1.114, including the fee set forth in
5 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is
6 eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)
7 has been timely paid, the finality of the previous Office action has been withdrawn pursuant to
8 37 CFR 1.114. Applicant's submission filed on 12/12/2005 has been entered.

Response to Arguments

10 Applicants' arguments filed 12/12/2005 have been fully considered but they are not
11 persuasive. Applicants' argue primarily that:

12 a. Cozza and Hypponen did not disclose that the fingerprint data includes a number
13 of program resource items specified within said resource data.

14 b. Cozza and Hypponen did not disclose the fingerprint data including a flag
15 indicating which data is included within said fingerprint data.

16 Regarding applicants' argument a., that Cozza and Hypponen did not disclose that the
17 fingerprint data includes a number of program resource items specified within said resource data,
18 the examiner does not find the argument persuasive. Hypponen taught that file signatures should
19 be used to detect viruses (See Hypponen Col. 3 Lines 14-25) and Cozza disclosed the files
20 containing resource items (i.e. application code, icons, preferences, strings, templates) specified
21 within resource data (i.e. resource fork) (See Cozza Col. 2 Paragraph 7). Therefore, in the
22 combination, because the file contains the resource fork and resource items, and the signature is

Art Unit: 2131

1 taken of the file, the signature includes a number of resource items specified within the resource
2 fork. As such, the combination meets this particular limitation. Therefore, the examiner does
3 not find the argument persuasive.

4 Regarding applicants' argument b., that Cozza and Hypponen did not disclose the
5 fingerprint data including a flag indicating which data is included within said fingerprint data,
6 the examiner does not find the argument persuasive. Column 3 of Cozza clearly indicated that a
7 set of flags was used to indicate the result (which viruses were found in the file) of the scan. In
8 the combination, the signature of the file is used to represent the file during comparison.
9
10 Therefore, it is clear that in the combination the flags represent which viruses were identified in
11 the signature. Therefore the combination of Cozza and Hypponen did disclose the fingerprint
12 data including a flag indicating which data (viruses) is included within said fingerprint data, and
13 therefore the examiner does not find the argument persuasive.

13 Because the examiner does not find the argument persuasive, the prior art rejections
14 presented in the final office action dated 6/10/2005 have been maintained.

15

16 Claims 1-3, 5-9, 11-12, 14-19, 21-25, 27-28, 30-35, 37-41, 43-44, 46-51, 53-57, 59-60,
17 62-67, 69-73, 75-76, 78-83, 85-89, 91-92, and 94-96 have been examined, while claims 4, 10,
18 13, 20, 26, 29, 36, 42, 45, 52, 58, 61, 68, 74, 77, 84, 90, and 93 have been cancelled.

19 All objections and rejections not set forth below have been withdrawn.

Claim Rejections - 35 USC § 112

21 The following is a quotation of the second paragraph of 35 U.S.C. 112:

22 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
23 subject matter which the applicant regards as his invention.

Art Unit: 2131

1 Claims 1-3, 5-9, 11-12, 14-19, 21-25, 27-28, 30-35, 37-41, 43-44, 46-51, 53-57, 59-60,
2 62-67, 69-73, 75-76, 78-83, 85-89, 91-92, and 94-96 are rejected under 35 U.S.C. 112, second
3 paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject
4 matter which applicant regards as the invention.

5 Claims 1, 17, 33, 49, 65, and 81 recite the limitation "said fingerprint data" in the last 4
6 lines. There is multiple antecedent basis for this limitation in the claim. It is unclear to which
7 fingerprint data this is referring and therefore the ordinary person skilled in the art would not be
8 able to determine the scope of the claim. Therefore, the claims are rejected for failing to
9 particularly point out and distinctly claim the subject matter which the applicant regards as the
10 invention. For the purposes of searching prior art, the examiner will assume these were referring
11 to either of the fingerprint data.

12 Claims 1, 17, 33, 49, 65, and 81 recite the limitation "said resource data" in the 3rd to last
13 line. There is multiple antecedent basis for this limitation in the claim. It is unclear to which
14 resource data this is referring and therefore the ordinary person skilled in the art would not be
15 able to determine the scope of the claim. Therefore, the claims are rejected for failing to
16 particularly point out and distinctly claim the subject matter which the applicant regards as the
17 invention. For the purposes of searching prior art, the examiner will assume these were referring
18 to either of the resource data.

19 Claims 3, 19, 35, 51, 67, and 83 recite the limitation "said resource data". There is
20 multiple antecedent basis for this limitation in the claim. It is unclear to which resource data this
21 is referring and therefore the ordinary person skilled in the art would not be able to determine the
22 scope of the claim. Therefore, the claims are rejected for failing to particularly point out and

Art Unit: 2131

1 distinctly claim the subject matter which the applicant regards as the invention. For the purposes
2 of searching prior art, the examiner will assume these were referring to either of the resource
3 data.

4 Claims 6, 22, 38, 54, 70, and 86 recite the limitation "said resource data". There is
5 multiple antecedent basis for this limitation in the claim. It is unclear to which resource data this
6 is referring and therefore the ordinary person skilled in the art would not be able to determine the
7 scope of the claim. Therefore, the claims are rejected for failing to particularly point out and
8 distinctly claim the subject matter which the applicant regards as the invention. For the purposes
9 of searching prior art, the examiner will assume these were referring to either of the resource
10 data.

11 Claims 7, 23, 39, 55, 71, and 87 recite the limitation "said resource data". There is
12 multiple antecedent basis for this limitation in the claim. It is unclear to which resource data this
13 is referring and therefore the ordinary person skilled in the art would not be able to determine the
14 scope of the claim. Therefore, the claims are rejected for failing to particularly point out and
15 distinctly claim the subject matter which the applicant regards as the invention. For the purposes
16 of searching prior art, the examiner will assume these were referring to either of the resource
17 data.

18 Claims 8, 24, 40, 56, 72, and 88 recite the limitation "said resource data". There is
19 multiple antecedent basis for this limitation in the claim. It is unclear to which resource data this
20 is referring and therefore the ordinary person skilled in the art would not be able to determine the
21 scope of the claim. Therefore, the claims are rejected for failing to particularly point out and
22 distinctly claim the subject matter which the applicant regards as the invention. For the purposes

Art Unit: 2131

1 of searching prior art, the examiner will assume these were referring to either of the resource
2 data.

3 Claims 9, 25, 41, 57, 73, and 89 recite the limitation "said resource data". There is
4 multiple antecedent basis for this limitation in the claim. It is unclear to which resource data this
5 is referring and therefore the ordinary person skilled in the art would not be able to determine the
6 scope of the claim. Therefore, the claims are rejected for failing to particularly point out and
7 distinctly claim the subject matter which the applicant regards as the invention. For the purposes
8 of searching prior art, the examiner will assume these were referring to either of the resource
9 data.

10 Claims 9, 25, 41, 57, 73, and 89 recite the limitation "said fingerprint data". There is
11 multiple antecedent basis for this limitation in the claim. It is unclear to which fingerprint data
12 this is referring and therefore the ordinary person skilled in the art would not be able to
13 determine the scope of the claim. Therefore, the claims are rejected for failing to particularly
14 point out and distinctly claim the subject matter which the applicant regards as the invention.
15 For the purposes of searching prior art, the examiner will assume these were referring to either of
16 the fingerprint data.

17 Claims 11, 27, 43, 59, 75, and 91 recite the limitation "said resource data". There is
18 multiple antecedent basis for this limitation in the claim. It is unclear to which resource data this
19 is referring and therefore the ordinary person skilled in the art would not be able to determine the
20 scope of the claim. Therefore, the claims are rejected for failing to particularly point out and
21 distinctly claim the subject matter which the applicant regards as the invention. For the purposes

Art Unit: 2131

1 of searching prior art, the examiner will assume these were referring to either of the resource
2 data.

3 Claims 11, 27, 43, 59, 75, and 91 recite the limitation "said fingerprint data". There is
4 multiple antecedent basis for this limitation in the claim. It is unclear to which fingerprint data
5 this is referring and therefore the ordinary person skilled in the art would not be able to
6 determine the scope of the claim. Therefore, the claims are rejected for failing to particularly
7 point out and distinctly claim the subject matter which the applicant regards as the invention.

8 For the purposes of searching prior art, the examiner will assume these were referring to either of
9 the fingerprint data.

10 Claims 12, 28, 44, 60, 76, and 92 recite the limitation "said fingerprint data". There is
11 multiple antecedent basis for this limitation in the claim. It is unclear to which fingerprint data
12 this is referring and therefore the ordinary person skilled in the art would not be able to
13 determine the scope of the claim. Therefore, the claims are rejected for failing to particularly
14 point out and distinctly claim the subject matter which the applicant regards as the invention.

15 For the purposes of searching prior art, the examiner will assume these were referring to either of
16 the fingerprint data.

17 Any claim not specifically mentioned above has been rejected by virtue of its dependency
18 to a specifically mentioned claim.

19 *Claim Rejections - 35 USC § 101*

20 35 U.S.C. 101 reads as follows:

21 Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
22 any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
23 requirements of this title.

24

Art Unit: 2131

1 Claims 1-3, 5-9, 11-12, 14-19, 21-25, 27-28, and 30-32 are rejected under 35 U.S.C. 101
2 because the claimed invention is directed to non-statutory subject matter. These claims are
3 directed only to a “computer program product”. A computer program product *per se* could
4 simply be a computer program written on paper, which does not fall within any of the statutory
5 categories of patentable subject matter. The specification does not provide any metes and
6 bounds for a computer program product and therefore a reasonable interpretation of a computer
7 program product would include a computer program written on paper. Therefore the claims are
8 rejected for being directed towards non-statutory subject matter. See MPEP § 2106.

Claim Rejections - 35 USC § 103

10 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

11 obviousness rejections set forth in this Office action:

12 *A patent may not be obtained though the invention is not identically disclosed or*
13 *described as set forth in section 102 of this title, if the differences between the subject matter*
14 *sought to be patented and the prior art are such that the subject matter as a whole would have*
15 *been obvious at the time the invention was made to a person having ordinary skill in the art to*
16 *which said subject matter pertains. Patentability shall not be negated by the manner in which*
17 *the invention was made.*

19 Claims 1-3, 5, 9, 11-12, 14, 17-19, 21, 25, 27-28, 30, 33-35, 37, 41, 43-44, 46, 49-51, 53,
20 57, 59-60, 62, 65-67, 69, 73, 75-76, 78, 81-83, 85, 89, 91-92, and 94 are rejected under 35
21 U.S.C. 103(a) as being unpatentable over Cozza (US Patent Number 5,649,095), and further in
22 view of Hyppönen et al. (US Patent Number 6,577,920) hereinafter referred to as Hypponen.

23 Regarding claims 1, 17, 33, 49, 65, and 81, Cozza disclosed a system, method, and
24 computer program product (See Cozza Claims and Col. 1 Lines 26-33) comprising a computer
25 program operable to control a computer to detect a known computer program within a packed

Art Unit: 2131

1 computer file, said packed computer file being unpacked upon execution, said computer program
2 comprising (See Cozza Abstract and Col. 3 Paragraph 6: resource data reading logic for reading
3 resource data within said packed computer file (See Cozza Col. 6 Lines 21-23 and 29-34), said
4 resource data specifying program resource items used by said known computer program (See
5 Cozza Col. 2 Paragraph 7) and readable by a computer operating system without dependence
6 upon which unpacking algorithm is used by said packed computer file (See Cozza Col. 6
7 Paragraphs 2-3 wherein the compressed file is not decompressed in order to read the resource
8 forks information); and resource data comparing logic for generating characteristics of said
9 resource data (See Cozza Paragraph 1 Lines 58-65 wherein it was inherent that the characteristic
10 data was generated in order for the data to have been compared) and for comparing said
11 characteristics of said resource data with characteristics of resource data of said known computer
12 program (See Cozza Col. 7 Lines 35-39 and Col. 1 Lines 58-65) and for detecting a match with
13 said known computer program indicative of said packed computer file containing said known
14 computer program (See Cozza Col. 7 Lines 35-39 and Col. 1 Lines 58-65), but Cozza failed to
15 disclose wherein said resource data of said packed computer file is processed to generate
16 fingerprint data and to compare said fingerprint data with fingerprint data of said known
17 computer program; wherein said fingerprint data includes a number of program resource items
18 specified within said resource data; or wherein said fingerprint data includes a flag indicating
19 which data is included within said fingerprint data. However, Cozza did disclose the file
20 including a number of program resource items specified within said resource data (See Cozza
21 Col. 2 Paragraph 7), and a set of flags indicating what data was contained in the file (See Cozza

Art Unit: 2131

1 Col. 3), and comparing the resource data with resource data of a known program (See Cozza Col.
2 1 Lines 58-65, Col. 6 Paragraph 3, and Col. 7 Lines 35-40).

3 Hypponen teaches a method of virus scanning in which signatures (fingerprint) of a file
4 are created and compared to signatures of known infected files in order to detect viruses (See
5 Hypponen Col. 3 Lines 14-25).

6 It would have been obvious to the ordinary person skilled in the art at the time of
7 invention to employ the teachings of Hypponen in the virus scanning of Cozza by creating a
8 signature of the resources of the compressed file and comparing it to previous signatures. This
9 would have been obvious because the ordinary person skilled in the art would have been
10 motivated to scan the files as quickly as possible, without compromising security. It would have
11 been obvious in this combination that because the file contains the resource fork and resource
12 items, and the signature is taken of the file, the signature includes a number of resource items
13 specified within the resource fork. It further would have been obvious that because the
14 fingerprint data represented the file during comparison, and the flags of Cozza indicated the
15 viruses found in the file, the fingerprint data would have included a flag indicating which data
16 (viruses) was included within said fingerprint data.

17 Regarding claims 2, 18, 34, 50, 66, and 82, Cozza and Hypponen disclosed that said
18 known computer program is one of: a Trojan computer program; and a worm computer program
19 (See Cozza Col. 1 Lines 22-32 and Col. 7 Lines 35-39).

20 Regarding claims 3, 19, 35, 51, 67, and 83, Cozza and Hypponen disclosed that said
21 resource data comparing logic is operable to compare said resource data with characteristics of a

Art Unit: 2131

1 plurality of known computer programs to detect if said packed computer program contains one of
2 said plurality of known computer programs (See Cozza Col. 7 Lines 35-40).

3 Regarding claims 5, 21, 37, 53, 69, and 85, Cozza and Hypponen disclosed that said
4 program resource items used by said known computer program include one or more of: icon
5 data; string data; dialog data; bitmap data; menu data; and language data (See Cozza Col. 2
6 Paragraph 7).

7 Regarding claims 9, 25, 41, 57, 73, and 89, the combination of Cozza and Hypponen
8 disclosed the fingerprint data including a checksum (See Hypponen Col. 4 Lines 55-59) value
9 calculated in dependence upon one or more of: a number of program resource items specified
10 beneath each node within hierarchically arranged resource data; string names associated with
11 program resource items within said resource data; and sizes of program resource items within
12 said resource data (See Cozza Col. 5 Lines 1-9 wherein it would have been inherent that the size,
13 or amount of data, the string names in the data, and the number of the resource items in that data
14 would have effected the calculation of the checksum).

15 Regarding claims 14, 30, 46, 62, 78, and 94, Cozza and Hypponen disclosed the
16 checksum being SHA, which shifts after each operation (See Hypponen Col. 4 Lines 56-59).

17 Regarding claims 11, 27, 43, 59, 75 and 91, the combination of Cozza and Hypponen
18 disclosed that said fingerprint data includes a location within said resource data of an entry
19 specifying a program resource item having a largest size (See Cozza Col. 6 Lines 29-45).

20

21 Claims 12, 28, 44, 60, 76, and 92 are rejected under 35 U.S.C. 103(a) as being
22 unpatentable over the combination of Cozza and Hypponen as applied to claims 4, 20, 36, 52, 68,

Art Unit: 2131

1 and 84 above respectively, and further in view of Hodges et al. (US Patent Number 6,269,456)
2 hereinafter referred to as Hodges.

3 The combination of Cozza and Hypponen disclosed creating fingerprint data for detecting
4 viruses (See rejection of claim 4 above), but failed to disclose providing a time of compilation in
5 the fingerprint data.

6 Hodges teaches that in a virus protection system, virus signature files can be
7 automatically updated with new signatures when necessary, if a latest revision time is provided
8 with the files (See Hodges Col. 2 Paragraph 6 and Col. 4 Paragraph 6).

9 It would have been obvious to the ordinary person skilled in the art at the time of
10 invention to employ the teachings of Hodges in the virus scanning system of Cozza and
11 Hypponen by providing a time of revision with each signature. This would have been obvious
12 because the ordinary person skilled in the art would have been motivated to ensure that the
13 system was protected against the most recently discovered viruses.

14 Claims 6-8, 15-16, 22-24, 31-32, 38-40, 47-48, 54-56, 63-64, 70-72, 79-80, 86-88, and
15 95-96 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Cozza
16 and Hypponen as applied to claims 1, 17, 33, 49, 65, and 81 above, and further in view of Pietrek
17 ("Peering Inside the PE: A Tour of the Win 32 Portable Executable").

18 Regarding claims 16, 32, 48, 64, 80, and 96, Cozza and Hypponen disclosed detecting a
19 known computer program in a compressed computer file, the file including resource data (See
20 rejection of claim 1 above), but failed to specifically name the Win32 PE file as one of these
21 files.

1 Pietrek teaches that a Win32 PE file is an executable file which contains un-initialized
2 code and resources, which when executed the code is initialized using the resources (See Pietrek
3 Page 21 PE File Base Relocations).

4 It would have been obvious to the ordinary person skilled in the art at the time of
5 invention to employ the teachings of Pietrek in the virus detector of Cozza and Hypponen by
6 allowing the scanning of Win32 PE files and their resources. This would have been obvious
7 because the ordinary person skilled in the art would have been motivated to provide protection
8 against Win32 PE files containing viruses.

9 Regarding claims 6-8, 22-24, 38-40, 54-56, 70-72, and 86-88, the combination of Cozza,
10 Hypponen and Pietrek disclosed specifying a storage location for each resource item as an offset,
11 and the size of each resource (See Pietrek Page 20 Table 13 Offsets and Page 21 Fig. 14
12 DWORD OffsetToData).

13 Regarding claims 15, 31, 47, 63, 79, and 95, Cozza, Hypponen and Pietrek disclosed
14 decompressing the computer program upon execution (See Pietrek Page 21 PE File Base
15 Relocations).

16 *Conclusion*

17 Claims 1-3, 5-9, 11-12, 14-19, 21-25, 27-28, 30-35, 37-41, 43-44, 46-51, 53-57, 59-60,
18 62-67, 69-73, 75-76, 78-83, 85-89, 91-92, and 94-96 have been rejected, while claims 4, 10, 13,
19 20, 26, 29, 36, 42, 45, 52, 58, 61, 68, 74, 77, 84, 90, and 93 have been cancelled.

20 Any inquiry concerning this communication or earlier communications from the
21 examiner should be directed to Matthew T. Henning whose telephone number is (571) 272-3790.
22 The examiner can normally be reached on M-F 8-4.

Art Unit: 2131

1 If attempts to reach the examiner by telephone are unsuccessful, the examiner's
2 supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the
3 organization where this application or proceeding is assigned is 571-273-8300.

4 Information regarding the status of an application may be obtained from the Patent
5 Application Information Retrieval (PAIR) system. Status information for published applications
6 may be obtained from either Private PAIR or Public PAIR. Status information for unpublished
7 applications is available through Private PAIR only. For more information about the PAIR
8 system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR
9 system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Matthew Henning
Assistant Examiner
Art Unit 2131
3/7/2006

CHRISTOPHER REVAK
PRIMARY EXAMINER
 3/9/06